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## NOTICE OF ALLOWANCE AND FEE(S) DUE

61857 7590 11/16/2009

AXIOS LAW GROUP, PLLC / REALNETWORKS, INC  
1525 4TH AVE, STE 800  
SEATTLE, WA 98101-1648

EXAMINER

SIDDIQI, MOHAMMAD A

ART UNIT

PAPER NUMBER

2454

DATE MAILED: 11/16/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/021,752

10/29/2001

James P. Lester

REAL-2006036 (RN118)

6272

TITLE OF INVENTION: INTERACTIVE DELIVERY OF MEDIA USING DYNAMIC PLAYLIST GENERATION SUBJECT TO RESTRICTIVE CRITERIA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	02/16/2010

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
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Alexandria, Virginia 22313-1450  
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

61857 7590 11/16/2009

**AXIOS LAW GROUP, PLLC / REALNETWORKS, INC**  
1525 4TH AVE, STE 800  
SEATTLE, WA 98101-1648

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/021,752 10/29/2001 James P. Lester REAL-2006036 (RN118) 6272

TITLE OF INVENTION: INTERACTIVE DELIVERY OF MEDIA USING DYNAMIC PLAYLIST GENERATION SUBJECT TO RESTRICTIVE CRITERIA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	02/16/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
SIDDIQI, MOHAMMAD A	2454	709-231000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,752	10/29/2001	James P. Lester	REAL-2006036 (RN118)	6272
61857	7590	11/16/2009	EXAMINER	
AXIOS LAW GROUP, PLLC / REALNETWORKS, INC 1525 4TH AVE, STE 800 SEATTLE, WA 98101-1648			SIDDIQI, MOHAMMAD A	
			ART UNIT	PAPER NUMBER
			2454	
DATE MAILED: 11/16/2009				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1386 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1386 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/021,752	LESTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MOHAMMAD A. SIDDIQI	2454	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06/29/2009.
2. ☒ The allowed claim(s) is/are 1-11 and 26-33, and 35 (please rearrange claims 1-20).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date ____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date ____.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other ____.</li> </ol> |
|---|--|

/NATHAN FLYNN/  
Supervisory Patent Examiner, Art Unit 2454

**DETAILED ACTION**

1. Claims 1-11, 26-33, and 35 are allowed.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Adam L.K. Philipp on 11/04/2009.

3. Please replace claims as follows:

Art Unit: 2454

**In the claims:**

1. (Currently Amended) A computer implemented method of delivering digital media items to a user electronic device, the method comprising:  
obtaining at the computer a playlist comprising a sequentially ordered plurality of digital media items that satisfies a set of restrictive criteria, wherein the set of restrictive criteria includes a condition that would preclude a media file from being played within a defined period of time;

playing said playlist by the computer, wherein playing said playlist comprises sequentially delivering to the user electronic device, via a computer network, said sequentially ordered plurality of digital media items; and

while the computer is playing the playlist:

receiving, from the user electronic device, an indication to add a requested digital media item to the playlist;

evaluating whether adding the requested digital media item to the playlist would satisfy the set of restrictive criteria; and

when the set of restrictive criteria is satisfied, selectively adding the requested digital media item to the playlist for delivery to the user electronic device subsequent to receipt of the request.

2. (Original) The method of claim 1, wherein the set of restrictive criteria comprises whether the playlist satisfies a set of group preferences.

Art Unit: 2454

3. (Original) The method of claim 1, wherein the adding comprises inserting a requested media item at a random position in the playlist.

4. (Original) The method of claim 1, wherein the adding comprises:  
attempting to add the requested media item to a position in the playlist so that the modified playlist satisfies the set of restrictive criteria; and  
disregarding the request if the requested media item cannot be added to the playlist so that the modified playlist would satisfy the set of restrictive criteria.

5. (Original) The method of claim 4, wherein the set of restrictive criteria comprises whether the playlist complies with the Digital Millennium Copyright Act requirement for obtaining a statutory license.

6. (Previously Presented) The method of claim 1, wherein the delivering media items comprises broadcasting media items to the user electronic device, and wherein said set of restrictive criteria comprises whether fewer than a substantial number of media items are delivered .

7. (Previously Presented) The method of claim 6, wherein the delivering media items further comprises broadcasting media items to the user electronic device, and wherein said set of restrictive criteria comprises whether fewer than a substantial number of media items are delivered at a time that the user electronic device is informed the requested media items will be delivered.

8. (Previously Presented) The method of claim 1, wherein delivering the media items comprises broadcasting media items to the user electronic device so that the media

Art Unit: 2454

items are delivered in compliance with the Digital Millennium Copyright Act requirement for obtaining a statutory license.

9. (Previously Presented) The method of claim 1, further comprising:

providing a searchable database of media items that allows at least one of the user electronic devices to search the database by a set of media attributes;

receiving a request from one or more of the user electronic devices for a media item from the database; and

selectively adding the requested media item from the database to the playlist if the modified playlist would satisfy the set of restrictive criteria.

10. (Previously Presented) The method of claim 1, wherein the adding comprises limiting the number of requests from the user electronic device.

11. (Original) The method of claim 1, wherein the media items are sound recordings.

12-25. Canceled.

26. (Currently Amended) One or more media servers for delivering digital media files to a plurality of client electronic devices over a computer network, the one or more media servers comprising:

a network connection for communicatively coupling one or more of the media servers with the plurality of client electronic devices over the network;

a playlist memory containing a playlist, wherein the playlist comprises a sequentially ordered plurality of digital media items that satisfies a set of restrictive criteria, wherein the set of restrictive criteria includes a condition that would preclude a media file from being played within a defined period of time;



a media storage memory containing a library of the digital media files; and  
a processor coupled with the network connection, the playlist memory, and the media storage memory, the processor operative to:

play the playlist by transmitting digital media files according to the sequential order indicated by the playlist from the media storage memory to the plurality of client electronic devices over the computer network; and

while the playlist is playing:

evaluate requests to add a requested digital media item to the playlist from one or more of the client electronic devices using the set of restrictive criteria; and

upon at least one of the requests satisfying the set of restrictive criteria, add an indication of the requested digital media file to the playlist for delivery to the user electronic device subsequent to receipt of said at least one of the requests.

27. (Previously Presented) The one or more media servers of claim 26, wherein the one or more media servers broadcast fewer than a substantial number of digital media files within an hour of receiving the request for a corresponding digital media file, or at a time that at one client electronic device is informed that the requested digital media file will be broadcast.

28. (Previously Presented) The one or more media servers of claim 26, wherein the set of restrictive criteria comprise whether the playlist satisfies a set of group preferences.

29. (Previously Presented) The one or more media servers of claim 26, wherein the digital media files are digital sound files.

Art Unit: 2454

30. (Previously Presented) The one or more media servers of claim 26, wherein:

the playlist memory contains a plurality of playlists, each playlist corresponding to a network media channel;

the processor is adapted to receive requests for digital media files from the plurality of client electronic devices, each request being associated with a network media channel, wherein the processor evaluates each request using one or more restrictive criteria and, if the playlist including the requested digital media file would satisfy the set of restrictive criteria, adds the requested digital media file to the playlist; and

the one or more media servers broadcast digital media files sequentially to the network on each of the plurality of network media channels according to each corresponding playlist.

31. (Previously Presented) The one or more media servers of claim 30, wherein, for each network media channel, the one or more media servers broadcast fewer than a substantial number of requested digital media files within an hour of receiving at least one of the requests for the corresponding digital media file, or at a time that at least one of the client electronic devices is informed that the requested digital media file will be broadcast.

32. (Previously Presented) The one or more media servers of claim 30, wherein the set of restrictive criteria comprises a set of group preferences to each network media channel.

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33. (Previously Presented) The method of claim 1, wherein the set of restrictive criteria includes a condition that would preclude a media file from outside a defined genre from being added to the playlist.

34. Canceled.

35. (Previously Presented) The method of claim 2, wherein the set group preferences defines one of a genre, type or category of a channel.

Art Unit: 2454

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD A. SIDDIQI whose telephone number is (571)272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MS

/NATHAN FLYNN/

Supervisory Patent Examiner, Art Unit 2454